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SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Iwai et al.	:	DECISION ON APPLICATION
Application No. 10/790,857	:	FOR
Filed: March 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 2004_0335A	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed on January 23, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from two hundred and eighty-one (281) days to six hundred and twenty-nine (629) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred and twenty-nine (629)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 24, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 281 days. On January 23, 2009, applicants timely¹ filed the instant application for patent term adjustment. Applicants dispute the reduction of 348 days, pursuant to 37 CFR 1.704(b), for applicant delay in filing a response to the Office action mailed January 22, 2007 on April 4, 2008, three months and 348 days later. Applicants maintain that the Office action mailed January 22, 2007 was never received. Rather, due to Office error, the Office action was mailed to an incorrect address. The Office action was subsequently re-mailed to the

¹ Office records show that the Issue Fee payment was also received on January 23, 2009.

same incorrect address on June 4, 2007, and was not received. On March 21, 2008, the Office action was mailed to the correct address, and within three months, applicants timely filed the response to the Office action as re-mailed for the second time on April 4, 2008.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.

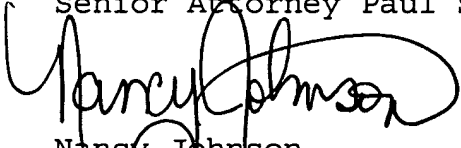
The application history has been reviewed and it has been determined that the initial patent term adjustment of 281 days is incorrect. The record supports a conclusion that the mailing of the Office action to an incorrect address on two occasions was due to an Office error. In this instance, applicants are correct that the delay in responding to the Office action should be calculated based on the date of the Second Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Second Letter Restarting Period for Response (the second re-mailed Office action, which was sent on March 21, 2008), there was no applicant delay within the meaning of § 1.704(b). The period of reduction of 348 days has been removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is six hundred and twenty-nine (629) days.

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The Office of Data Management has been advised of this decision. The application is, thereby, being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Monday
Date : 9/21/2009

PALM INTRANET

Time: 14:16:29

PTA Calculations for Application: 10/790857

Application Filing Date:	03/03/2004	PTO Delay (PTO):	629
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	348
Post-Issue Petitions:	0	Total PTA (days):	629
PTO Delay Adjustment:	348		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	08/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	348		
61	10/24/2008	MAIL NOTICE OF ALLOWANCE			
60	10/23/2008	ISSUE REVISION COMPLETED			
59	10/23/2008	DOCUMENT VERIFICATION			
58	10/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	10/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
56	10/23/2008	NOTICE OF ALLOWABILITY			
52	08/19/2008	SUBSTITUTE SPECIFICATION FILED			
51	09/10/2008	DATE FORWARDED TO EXAMINER			
50	08/19/2008	RESPONSE AFTER NON-FINAL ACTION			
49	05/19/2008	MAIL NON-FINAL REJECTION			
48	05/19/2008	NON-FINAL REJECTION			
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41	04/04/2008	RESPONSE TO ELECTION / RESTRICTION FILED		348	34
40	03/21/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
39	03/20/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
38	03/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
37	10/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
36	06/04/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
35	06/02/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
34	01/22/2007	MAIL RESTRICTION REQUIREMENT	629		-1
33	01/16/2007	REQUIREMENT FOR RESTRICTION / ELECTION			

32	01/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	07/06/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	09/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	09/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	10/25/2006	TRANSFER INQUIRY TO GAU			
27	08/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
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24	12/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	06/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	03/31/2005	CORRESPONDENCE ADDRESS CHANGE			
21	03/03/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
20	03/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/18/2004	TRANSFER INQUIRY TO GAU			
17.7	09/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/02/2004	REFERENCE CAPTURE ON IDS			
15.7	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14.7	07/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/05/2004	TRANSFER INQUIRY TO GAU			
12	08/04/2004	APPLICATION RETURN FROM OIPE			
11	08/04/2004	APPLICATION RETURN TO OIPE			
10	08/03/2004	APPLICATION DISPATCHED FROM OIPE			
9	08/04/2004	APPLICATION IS NOW COMPLETE			
8	07/06/2004	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

6	07/06/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/24/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
4	04/03/2004	CASE CLASSIFIED BY OIPE			
3	04/03/2004	CLEARED BY OIPE CSR			
2	03/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/03/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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